

MINUTE ITEM

This County Form No. 35  
Was approved by the State Lands  
Commission on the date of 3  
12/15/76

CALENDAR ITEM

35.

12/76  
WP 4886  
SJS

INDUSTRIAL LEASE ASSIGNMENT AMENDMENT

BLA 144

ASSIGNOR: Hercules, Inc.  
c/o Pillsbury, Madison & Sutro  
Attorneys at Law  
P. O. Box 7880  
San Francisco, California 94120

ASSIGNEE: Valley Nitrogen Producers, Inc.  
P. O. Box 1752  
Fresno, California 93717

AREA, TYPE LAND AND LOCATION:  
1.77 acres of tide and submerged land in  
San Pablo Bay at Hercules, Contra Costa County.

LAND USE: Maintenance and operation of a pier which  
supports a pump house and salt water pipeline  
used for cooling purposes.

TERMS OF ORIGINAL LEASE:

Initial period: 10 years from March 15, 1974.

Renewal options: 2 successive periods of 10  
years each.

Surety bond: \$50,000.

Public liability insurance: \$500,000/\$1,000,000  
per occurrence for bodily  
injury and \$100,000 for pro-  
perty damage.

Consideration: \$300 per annum.

CONSIDERATION FOR NEW LEASE:

\$300 per annum.

BASIS FOR CONSIDERATION:

Negotiated amount based on agreement to re-  
pair or replace pier.

PREREQUISITE TERMS, FEES AND EXPENSES:

Applicant is owner of upland.

Processing costs have been received.

STATUTORY AND OTHER REFERENCES:

A. Public Resources Code: Div. 6, Parts 1 & 2.

B. Administrative Code: Title 2, Div. 3,  
Arts. 1, 2, 70 & 11.

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OTHER PERTINENT INFORMATION:

1. This project is situated on State land identified as environmentally significant, pursuant to Public Resources Code 6570.1, and is classified in a significant use category, Class C: Multiple Use. The project is determined to be a compatible use consistent with identified significant environmental values.
2. An Environmental Impact Report is not required. This transaction is within the purview of 2 Cal. Adm. Code 2907(a) which exempts an existing structure or facility that is in an acceptable state of repair and there is no evidence of record to show injury to adjacent property, shoreline erosion, or other types of environmental degradation.
3. Valley Nitrogen has agreed in writing to submit a detailed plan to the State Lands Division by May 1, 1977, which will provide for the repair and improvement of the existing pier facilities or the replacement of said facilities, to standards acceptable to the U.S. Corps of Engineers.
4. Volumetric rental rates do not apply at this time since the only use of the pier is for the pumping of sea water through a pipeline for plant cooling purposes.
5. Boundary settlement and exchange agreement (BLA 144), dated February 28, 1974, provided that Hercules, Inc., has continued use of designated parcel 9 and 10, until July 1, 1977. Staff recommends that the licenses for continued use of said parcels be transferred to Valley Nitrogen Producers, Inc., with the understanding that the licenses will terminate except for the access easement, on January 1, 1977.
6. BLA 144 has provided Hercules, Inc., with a license to relocate Refugio Creek. The licenses do not have an effect on State interests and staff recommends the transfer of the license to Valley Nitrogen Producers, Inc.

EXHIBITS: A. & B. Location Maps.

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IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT AN ENVIRONMENTAL IMPACT REPORT HAS NOT BEEN PREPARED FOR THIS ACTIVITY AS SUCH REPORT IS NOT REQUIRED UNDER THE PROVISIONS OF PRC 21085, 14 CAL. ADM. CODE 15100 ET SEQ., AND 2 CAL. ADM. CODE 2907.
2. FIND THAT THE GRANTING OF THE ASSIGNMENT AMENDMENT IS COMPATIBLE WITH ENVIRONMENTAL VALUES IDENTIFIED PURSUANT TO SECTION 6370.1, OF THE PUBLIC RESOURCES CODE.
3. AUTHORIZE THE TRANSFER OF THE RIGHTS SPECIFIED IN BLA 144 PERTAINING TO THE RELOCATION OF REFUGIO CREEK FROM HERCULES, INC., TO VALLEY NITROGEN PRODUCERS, INC.
4. AUTHORIZE THE TRANSFER OF THOSE RIGHTS GRANTED TO HERCULES, INC., BY BLA 144, PERTAINING TO THE USE OF PARCELS 9 AND 10 (DESIGNATED IN SAID BLA), TO VALLEY NITROGEN PRODUCERS, INC., AND THE MODIFICATION OF SAME, CHANGING THE TERMINATION DATE FROM JULY 1, 1977 TO JANUARY 1, 1977.
5. AUTHORIZE THE RELEASE OF HERCULES, INC., FROM THE DUTIES SPECIFIED IN BLA 144, RELATIVE TO THE REMOVAL OF BUILDING ON PARCELS 9 AND 10.
6. AUTHORIZE ISSUANCE TO VALLEY NITROGEN PRODUCERS, INC., AN ASSIGNMENT AMENDMENT OF A 10-YEAR INDUSTRIAL LEASE FROM MARCH 15, 1974, WITH LESSEE'S OPTION TO RENEW FOR 2 SUCCESSIVE PERIODS OF 10-YEARS EACH; IN CONSIDERATION OF ANNUAL RENT IN THE AMOUNT OF \$300; PROVISION OF A \$50,000 SURETY BOND; PROVISION OF PUBLIC LIABILITY INSURANCE IN AMOUNTS OF \$500,000/\$1,000,000 PER OCCURRENCE FOR BODILY INJURY AND \$100,000 FOR PROPERTY DAMAGE; FOR THE MAINTENANCE AND OPERATION OF A PIER USED FOR PUMPING SEA WATER TO PLANT FACILITIES FOR COOLING PURPOSES ON THE LAND DESCRIBED ON PARCEL MAP EXHIBIT "B" ON FILE WITH THE OFFICE OF THE STATE LANDS DIVISION AND BY REFERENCE MADE A PART HEREOF.
7. ABOVE AUTHORIZATION CONTINGENT UPON VALLEY NITROGEN PRODUCERS, INC.'S EXECUTION OF AGREEMENT TO REPAIR OR REPLACE PIER FACILITIES TO STANDARDS ACCEPTABLE TO THE U.S. ARMY CORPS OF ENGINEERS BY OCTOBER 1, 1977.